



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

NOVEMBER 12, 2002

PRESENT: Acevedo, Benich, Engles, Lyle, Mueller, Weston

ABSENT: None

LATE: Escobar, who arrived at 7:14 p.m.

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, Associate Planner (AP) Tolentino, Assistant Planner (AP) Plambaeck, and Minutes Clerk Johnson

Chair Acevedo called the meeting to order at 7:00 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

**OCTOBER 22,
2002**

**COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE THE
OCTOBER 22, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:**

Page 5, paragraph 3. Commissioner Mueller indicated that the under-count that was taken out will be replaced by a new under-count correction that may be smaller or larger than the 440 that was taken out of the 1/1/02 population number.

**THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO,
BENICH, ENGLS, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN:
NONE; ABSENT: ESCOBAR.**

OLD BUSINESS:

**1) UP-02-07:
MONTEREY-
SINALOA** A request for conditional use permit approval for the reconstruction and expansion of a restaurant recently destroyed in a fire. The restaurant is proposed to be 5,820 sf on 2 parcels totaling 0.90 acres in size, located on the northeast corner of Monterey Rd and Peebles Ave.

AP Tolentino presented the staff report, saying the Sinaloa Café was recently destroyed in a fire. The structure has operated as a restaurant since 1947, prior to the annexation of Madrone into the City of Morgan Hill in 1958 (the restaurant was established as Sinaloa Café in 1960). In 1993, the zoning for the property was changed from General Commercial Thoroughfare to CS Service Commercial to bring the zoning into conformance with the changes in the General Plan. Under the CS zoning district, eating establishments are listed as conditional uses.

Commissioner Weston asked if the Architectural Review Board (ARB) had already approved the project? He stated that he didn't see any conditions attached to the report which generally might be expected from the ARB.

AP Tolentino responded that the ARB had reviewed the project at their November 7 meeting and generally liked it.

Commissioner Benich stated he was concerned about the traffic/circulation report, asking for clarification regarding the left turns from Peebles to Monterey. The issue was edified. Commissioner Benich inquired as to what 'chatter bars' are versus Botts dots. He commented that the chatter bars are not delineated on the drawings. Commissioner Benich stated that he disagrees with the traffic analysis, noting that more traffic will be generated because of the housing development nearby.

Responding to Commissioner Weston's question, AP Tolentino said that there were detached sidewalks planned on Peebles and also on Monterey.

Chair Acevedo asked for a description regarding seating on the veranda. AP Tolentino explained that the plan indicated benches and chairs, but no tables. The applicant's request does not indicate a wish to have food served on the veranda, she said. Continuing, Chair Acevedo asked about the proposed elevation(s) on the back and east patios of the property and building design, saying there were some differences from the drawings in the narrative of the report. AP Tolentino explained the design.

Commissioner Escobar arrived at 7:14 p.m. and was seated on the dias.

Chair Acevedo opened the public hearing.

Jeff King, 17705 Hale Ave, the architect for the project, stated he was present to answer questions. Mr. King offered explanation of the veranda design/location, stating this was one of the mitigation measures to satisfy architecture/historical influence criteria. "The veranda has been indicated as having high priority with the historian," he said. "Essentially no seating for eating was planned, it's just for show," Mr. King stated.

Commissioner Benich commented on the architectural continuity from the early building

days to the present.

With no others present indicating a wish to speak to the issue, the public hearing was closed.

Commissioner Lyle suggested language for Section E of the proposed resolution: Six Month Review. A review of the outdoor patio use shall be conducted in following six (6) months of outdoor use to ensure noise levels are not adversely affecting the neighboring residential uses. Should outdoor noise exceed acceptable levels, modification to the outdoor patio area will be required. Other Commissioners concurred with his suggestion.

Commissioner Benich called attention to the letter of justification included in the report, stating that he disagrees with the first sentence of the second paragraph. The request, it was noted, calls for an increase in square footage [366 sf], which he felt will boost increased traffic.

Discussion ensued regarding the location of the transformer and the nearby businesses. AP Tolentino informed that the ARB had dealt with the location of the transformer requiring it to be moved to the interior of the lot, and the subsequent screening of the transformer.

The fencing indicated in the plan was also discussed, with the Commissioners directing staff to work with the applicant to find a more aesthetically pleasing fence near the streets.

The location and screening of the trash receptacle were discussed, with change in the screening agreed. When Commissioner Weston stated objection to the location [center of the property], it was explained that if the trash receptacle was at the back/corner, the neighbors in the housing development may offer objection to the early morning removal of the trash, in view of the noise factor associated with trash pick-up.

Note: Commissioner Weston led discussion of the fencing materials and the composition of the trash enclosure details stating that the slatted fencing was unacceptable and the trash enclosure should be decorative blocks rather than plain.

Chair Acevedo commented that he would not be adverse to adding Section G.4 to the resolution, permitting tables for service of drinks and appetizers while patrons are waiting for service in the restaurant. Commissioner Benich agreed, saying this would provide a friendly atmosphere; others disagreed, citing safety issues, the (proposed) encroachment into the set-backs, and the proximity of the traffic (add) additional parking requirement, the precedence setting, and the perceived atmosphere of a bar if this were allowed.

COMMISSIONERS MUELLER/WESTON OFFERED RESOLUTION NO. 02-81, APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR THE RECONSTRUCTION AND EXPANSION OF A RESTAURANT RECENTLY DESTROYED IN A FIRE LOCATED AT THE NORTHEAST CORNER OF MONTEREY ROAD AND PEEBLES AVENUE IN THE CS SERVICE COMMERCIAL ZONING DISTRICT INCLUSIVE OF THE FOLLOWING MODIFICATIONS AND ADDITIONS: 1) ADD SECTION G.4, E.G., MASONRY OR OTHER SOLID MATERIAL; 2) THE AFOREMENTIONED CHANGES IN SECTION E; 3) INCLUSION OF TRASH RECEPTACLE SCREENING TO BE TEXTURED TO MATCH THE BUILDING EXTERIOR; AND 4) MODIFY SECTION 2 OF RESOLUTION NO. 02-81 TO IDENTIFY ARB'S APPROVAL OF

THE MITIGATED NEGATIVE DECLARATION.

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

PM Rowe excused himself for the next item because of a conflict of interest due to the project's proximity to his residence.

NEW BUSINESS:

2) DA-02-07:- A request for approval of a development agreement for a 15-lot single-family residential subdivision on an 8.583-acre site. The project is located west of Hill Rd., at the terminus of Shafer Ave. and Katybeth Way, north of Conte Way in an R-1 (12,000)/RPD zoning district.
SHAHER
BAMDAD

AP Tolentino presented the staff report. The proposed project, referred to as Tuscany Meadows, received 15 building allotments in the 2001 Measure P competition. The project received seven allotments for Fiscal Year 2003-04 and eight allotments for Fiscal Year 2004-05. The 15 allotments represent full build-out of the project. The applicant has been stalled somewhat in that the original project designer is no longer in business and the applicant was forced to find a new architect to finalize the building plans. The applicant, she said, has been attempting to sell the project, but that has not yet occurred. Consequently, he is currently planning to go ahead with the project himself.

Commissioner Weston commented he knows the original designer and wonders about any copyright issues. He was advised this is not an issue.

Commissioner Lyle recommended modification to page 8, item (n)(ii) to include language for business improvements to be approved by Public Works.

Chair Acevedo opened the public hearing.

Rafi Bamdad, 13250 Pierce Rd., identifying himself as the applicant, was present to speak with the Commissioners. He said that he previously had a buyer for the project, but due to a conflict in the agreement, he now plans to build the project himself. Mr. Bamdad communicated that he continues to explore other arrangements, but has not yet found a buyer nor a partner. He also said that he is working with his new designer to ensure the project is in keeping with Measure P requirements.

Commissioner Lyle asked questions regarding the schedule of building.

Mr. Bamdad spoke regarding the commencement of building, explaining that the plans are phased, but detailing the need for 'flexibility in staggering the permits'.

The public hearing was closed, as there were no others indicating a wish to speak.

Commissioner Lyle said that based on information presented by the applicant, he feels that changes in dates listed on **page 16** Exhibit "B" should be changed to read:

BUILDING PERMITS

(Add) Building Permit Submittal

Submit plans to Building Division for plan check: ~~December 11~~ September 30, 2003

Obtain Building Permits:

FY 2003-04 (7 units)

~~April 2~~, March 31, 2004

FY 2004-05 (8 units)

~~April 2~~, March 31, 2005

Other Commissioners agreed with the proposal, as did the applicant.

Commission Weston expressed lingering concern regarding the change in architects.

Mr. Bamdad said that the new footprints represent dwellings reduced in size.

COMMISSIONERS BENICH/MUELLER OFFERED RESOLUTION NO. 02-82, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT, DA-02-07: SHAFER - BAMDAD, INCLUDING THE AFOREMENTIONED CHANGES (add following):[TOPAGE 8, ITEM (n) (ii) AND THE AGREED UPON DEVELOPMENT SCHEDULE CHANGES]. THE MOTION PASSED WITH THE UNANIMOUS APPROVAL OF ALL COMMISSIONERS PRESENT.

PM Rowe rejoined the meeting at this time.

3) DA-02-10: E. DUNNE-FIRST COMMUNITY HOUSING

A request for approval of a development agreement for phase II of the Murphy Ranch project currently under construction on the southeast corner of the intersection of Butterfield Blvd. and E. Dunne Ave. Phase II of the development consists of 38 of the total 100 unit development.

PM Rowe announced that because the applicant had contacted the Planning Department regarding a sudden inability to attend the evening's meeting, there was a request to continue the item to the next regularly scheduled meeting.

Commissioner Lyle asked if the matter must be continued if the Commissioners have no issues to raise relating to the request? Commissioner Mueller said it is better to have the applicant present, as they may wish to raise issues before the Commission.

Chair Acevedo opened the public hearing.

No persons were present indicating a desire to speak.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE DA-02-10: E. DUNNE-FIRST COMMUNITY HOUSING TO THE NEXT REGULARLY SCHEDULED MEETING. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**4) DAA-01-06:
COCHRANE-
COYOTE
RANCH**

A request to amend the development agreement for phase six of the Coyote Estates project to be located near the intersection of Cochrane Rd. and Peet Rd. The amendment request would extend sixteen building allocations for six months.

AP Plambaeck presented the staff report, indicating that the applicant's letter offers explanation that an extension of time is needed because the project was originally delayed because of the requirement for an expanded initial study, which subsequently delayed the approval of the tentative map. High work loads in Public Works, coupled with other projects being in the 'pipeline' have caused further delays in the approval process. Staff agrees, AP Plambaeck stated, that the six-month extension of time being requested for the five units is due to delays not the result of developer inaction. He noted that the applicant has also requested a six-month extension for eleven building allocations awarded for FY 2002-03.

A correction to Exhibit "A" was noted with item V now reading June 30, 2003

Chair Acevedo opened the public hearing.

Dick Oliver, 275 Saratoga Ave., #105, Santa Clara, the applicant, was present to speak with the Commissioners. He presented the background of the project and allocations granted during the Measure P hearings and approvals. He called attention to his letter included in the staff report, saying that the staff report itself is accurate. Mr. Oliver said he is in need of the extension(s) as the banks are getting more 'skittish'. In working with a prior lender, he said, they are indicating a decrease in funding where commencement of projects is concerned. Mr. Oliver articulated the differences in building and sales cycles that have recently changed. He said he plans to start before June 30, 2003, and is 'ok' with breaking up the unit starts, but he insisted he wants to be realistic about the time needed to obtain the money and the permits.

With no others indicating a wish to speak to the matter, the public hearing was closed.

AP Plambaeck reiterated that staff recommends approval of a six-month extension of time for the five units granted for FY 2001-2002, but does not recommend approval for the eleven units granted for FY 2002-2003.

Commissioner Lyle advocated changes in the dates of Exhibit "A" as follows:

V. Pull Building Permits - FY 2001-02	March 31, 2003
VI. Commence Construction - FY 2001-02	May 31, 2003
VII. Pull Building Permits - FY 2002-03	September 30, 2003
VIII. Commence Construction - FY 2002-03	December 31, 2003

The justification, for these revisions, Commissioner Lyle said, is that extension of the City processes may cause further delay, therefore the time adjustments are warranted.

**COMMISSIONERS MUELLER/WESTON OFFERED RESOLUTION NO. 02-84
RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT**

AMENDMENT, DAA-01-06: COCHRANE-COYOTE ESTATES, WITH THE ADJUSTMENT OF DATES IN EXHIBIT "A" AS AGREED UPON. THE MOTION PASSED WITH THE UNANIMOUS APPROVAL OF ALL COMMISSIONERS PRESENT.

**5) ZA-02-17:
CITY OF MH-
ZONING TEXT
AMENDMENT
OF PARKING
LOT & SIDE-
WALK SALES**

PM Rowe presented the staff report, noting that the City Council requested this item be placed on the Planning Commission agenda for discussion. The Council is asking for a recommendation from the Planning Commission regarding possible amendments to regulate more specifically, parking lot used car tent sales, he explained.

Parking lot sales are regulated under Section 18.54.160.A Of the Municipal Code. Such uses are limited seven days in any 180-day period and require a Temporary Use Permit (TUP).

Recently approved used car sales in the Tennant Station Shopping Center have resulted in maximum seven days being reached; the Shopping Center location will not be available for parking lot sales for the next six months (180 days). Complaints have been received regarding the granting of the TUPs, and concerns have been raised within the City departments as well.

Commissioner Escobar asked if current businesses within the City, e.g., K-Mart, Longs, etc. must obtain a TUP? [Yes]

Commissioner Lyle said he is concerned about the use of temporary signage, indicating that it may be large and off-site from the TUP installation.

Chair Acevedo opened the public hearing.

With none present to address the matter, the public hearing was closed.

Commissioners raised the following concerns during discussion:

- Lack of clarity on whether the sales tax goes to Morgan Hill, coupled with strong feelings that it should. The need to ensure that the sales tax collected goes to the finances of Morgan Hill.
- The 'carnival-type atmosphere' which the sales promote.
- Noise complaints.
- A feeling of negativity toward the TUP being used for parking lot sales (statement: only if non-profit organizations benefit should the sales be allowed).
- The uses are frequently 'tacky'.

Following discussion, staff was directed to return an amendment to the existing code to reflect the views expressed during the listing of concerns.

Commissioner Mueller reminded that sidewalk sales are not prohibited within the City.

OTHER BUSINESS:

6) COMMISSION CRITERIA FOR DETERMINING OVERALL PROJECT EXCELLENCE - QUALITY OF CONSTRUCTION CATEGORY PM Rowe gave the staff report, noting Criterion B.5 under the Quality of Construction Category indicates "Proposed project phase(s) are judged by the Planning Commission to be superior with respect to overall project excellence. (one point)". He said that prior to this year competition, the Commission requested this item be scheduled for discussion, and had prepared some suggestions for possible criteria.

Chair Acevedo opened the public hearing.

Dick Oliver, 275 Sarasota Ave., #105, Santa Clara, disclosed his experience with the issue which he classified as having caused some concern and confusion. Mr. Oliver said he has worked with staff to obtain clarification of the issues, spending many hours and believes he finally has a handle on the issue.

With no others indicating a wish to speak to the matter, the public hearing was closed.

Commissioners discussed the matter, with several issues being brought up:

- The wording changes of the documents as perceived by the developers.
- Whether the intent is to reward developers who have excellent projects and not require them to return for further examination.
- The possibility of 'category based' award in the one point.
- Need for clearly defined methodology
- The need to 'look at the whole project - whether this is a project that is good for the City?'
- The necessity of individual scoring after the first public hearing.
- Whether the competition should be a challenge against the standard of excellence or against the other projects presented?
- The need for trying to factor in subjectivity: creativity by the developers, the 'whole project' issue.
- The evolvement of the process, whereby in a multiple-year project, the points change from year-to-year.
- Aesthetics concerns.
- Being able to have members of the public look at a project and say, "That's a superior project." (PM Rowe reminded that the Planning Commission determines the award of the one-point, with input from the Building Official's office.)

Because the issue had not reached conclusion, the possibility of a workshop to further facilitate discussion and subsequent decision making was explored. It was agreed that the matter will be placed on future agendas until a decision is reached regarding the one-point reserved for the Planning Commission to award.

7) GENERAL PLAN IMPLEMENTATION REPORT AP Plambaeck presented the staff report, explaining that Action 1.3 of the City's General Plan in the Community Development Element requires the City to review progress in meeting General Plan goals and policies for each Fiscal Year. California Code also requires planning agencies to provide an annual report to the City and the CA Office of Planning and Research and the Department of Housing and Community Development regarding the progress of the status of the plan, including implementation. AP Plambaeck said he was happy to report that

satisfactory progress is being made.

Commissioner Mueller provided the following comments regarding the report:

- There should be an indication of when 'something is getting done' (a time line).
- Relating to the population table, there is need for indication of how many housing allocations remain.
- The San Martin Planning Advisory Committee was omitted from the report.
- Page 6, goal 6, may need to be revised, as VTA is having budget issues, and has projected cut-backs. This document should reflect that matter.
- There is need for parkland status report.

Commissioner Lyle called attention to page 5 of the report, stating that the numbers are not well nor easily understood; and there is a need to identify job deficit. For example, he said, there appears to be 3,000 more houses than there are jobs to support those households.

PM Rowe assured that the comments will be incorporated before the report is forwarded to the indicated agencies. Commissioner Mueller requested a revised report upon completion.

Regarding the report, Chair Acevedo asked the status of the Catholic High School. Discussion ensued regarding the economic slowdown in the area, as well as the recently revealed requirements by the CA PUC.

8) HOLIDAY SCHEDULE

Following discussion, Commission members agreed with staff that it will be prudent to have the regularly scheduled meeting of November 26 and December 10, with the December 24 meeting canceled. Accordingly, **COMMISSIONERS MUELLER/LYLE MOTIONED TO ADOPT A HOLIDAY SCHEDULE WITH THE DECEMBER 24, 2002 MEETING CANCELED AND REGULARLY SCHEDULED MEETINGS TO RESUME IN JANUARY. THE MOTION PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLS, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

Commissioner Mueller requested that Street Standards be placed on the December 10 agenda. Commissioners reminded that the one-point Measure P scoring issue is to be heard on the next agenda (November 26) - and at every meeting until resolution is achieved.

ANNOUNCEMENTS:

PM Rowe reported that on November 16, the City Council approved the Watsonville-City of Morgan Hill/RDA General Plan and Zoning Amendments. At the same meeting, they also approved the zoning and development agreements for the Llagas-Delco/Dividend project, as well as the development agreement for Phase 5 of the Central Park project.

Commissioner Mueller reported that the State has returned comments on the Housing Element. He spoke of the relationship(s) in working with the state on the project.

Commissioner Mueller announced that on Thursday (November 14) the South County Joint Planning Advisory Committee will meet to discuss the Countywide Airport Master Plan Update. He described the issue as a 'hot potato' in San Martin. Residents there are opposed to plans for the future airport expansion.

PLANNING COMMISSION MINUTES

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ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 9:39 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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